

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

BRUCE M. BATES

v.

TRAVELSUITE, INC.

*
*
* Civil No. JFM-04-1956
* Exempt from ECF
*

MEMORANDUM

This is an action for a trademark infringement and unfair competition. Despite this court's strong suggestion that they retain counsel, all parties are appearing *pro se*. As a result, proceedings have not gone smoothly and have been delayed. There are a number of pending matters this memorandum will address.

1. Motion for leave to file amended complaint (document 15).

No opposition has been filed to plaintiff's motion for leave to file this motion, and by an order I entered on December 8, 2004 (document 15) I directed the Clerk to issue summonses for Kenneth Starnes and TravelSuite, Inc., two of the parties plaintiff sought to join in the amended complaint.¹ I will now enter an order expressly granting the motion to add Starnes and TravelSuite as defendants.

2. Motion for judgment against JETBID (document 17).

In a memorandum I issued on March 24, 2005, I directed that JETBID advise this court

¹Plaintiff also seemed to be seeking to join Andrew Zarrow, Starnes' attorney, as a defendant. However, plaintiff has stated no facts that would support a claim against Zarrow. Thus, to the extent that plaintiff's motion does request leave to file an amended complaint against Zarrow, the motion is denied.

on or before April 22, 2005, if it intended to defend this action. JETBID has filed no response.² Moreover, as a corporation, JETBID may not appear *pro se*, see *Local Rule 101.1.a*, and it was notified that unless counsel entered an appearance on its behalf, a default judgment would be entered against it. Accordingly, plaintiff's motion for judgment against JETBID will be granted and judgment by default will be entered against JETBID.

3. Motion to dismiss for lack of jurisdiction (document 18).

In my March 24, 2005 memorandum, I deferred ruling on this motion.³ The record remains sparse on the jurisdictional question. However, because plaintiff is asserting a violation of federal trademark infringement law, this court has federal jurisdiction under 28 U.S.C. § 1331. To the extent that plaintiff is asserting any claim under state law, this court likewise has supplemental jurisdiction under 28 U.S.C. § 1367. As to the question of personal jurisdiction, it appears that JETBID had a semi-interactive website and solicited business from persons in Maryland. Accordingly, the motion to dismiss for lack of subject matter jurisdiction will be denied. See generally *CAREFIRST OF MARYLAND, INC. v. CAREFIRST PREGNANCY CENTERS, INC.*, 334 F.3d 390, 398-401 (4th Cir. 2003); *Zippo Mfg. Co. v. Zippo.com, Inc.*, 952 F. Supp. 1119 (W.D.Pa. 1997).

²Starnes did submit a letter dated April 18, 2005, in response to my March 24, 2005 letter. By a separate order, I am directing the Clerk to docket this letter and place it in the court file. In the letter Starnes explains why he is not retaining counsel. Of course, he has a right not to do so. But Starnes has not addressed JETBID's situation and the prohibition against it proceeding *pro se*.

³On the face of the motion to dismiss, Starnes appears to be filing it on his own behalf. However, he was not yet a party when the motion was filed, and he still has not been served with process. Accordingly, I will deem the motion to have been filed on behalf of JETBID (despite the fact that JETBID has never been represented by counsel in this action).

4. Failure to effect service upon Starnes and TravelSuite.

Service has not yet been effected upon defendants Starnes and TravelSuite. Plaintiff is hereby advised that unless service is effected upon these defendants on or before October 18, 2005, this action will be dismissed against those defendants without prejudice pursuant to Fed. R. Civ. P. 4 (m).

September 27, 2005

/s/_____
J. Frederick Motz
United States District Judge

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ORDER

For the reasons stated in the accompanying memorandum, it is, this 27th day of
September 2005

ORDERED

1. Plaintiff's motion for leave to file amended complaint (document 13) is granted as to
Kenneth Starnes and TravelSuite but denied as to Andrew Zarrow;

2. The Clerk is directed to docket and place in the court file Kenneth Starnes' letter dated
April 18, 2005;

3. Plaintiff's motion for judgment against JETBID, Inc. (document 17) is granted; and
judgment by default is granted against JETBID, Inc.;

4. The motion to dismiss for lack of jurisdiction (document 18) is denied; and

5. Plaintiff is advised that unless service is effected upon defendants Starnes and
TravelSuite on or before October 18, 2005, this action will be dismissed without prejudice as to
those defendants.

/s/ _____
J. Frederick Motz
United States District Judge